

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: RILEY NEWTON
DEPUTY ATTORNEY GENERAL
DANIEL KLEIN
COMMISSION STAFF

DATE: NOVEMBER 19, 2021

RE: COMMISSION INQUIRY INTO THE REVIEW OF APPLICATIONS TO
DETERMINE WHETHER BROADBAND EQUIPMENT MEETS THE
ELIGIBILITY REQUIREMENTS FOR INVESTMENT TAX CREDITS;
CASE NO. GNR-T-21-10.

BACKGROUND

House Bill 377, enacted in 2001, authorizes an income tax credit for taxpayers who installed qualifying broadband infrastructure in Idaho. *See Idaho Code* § 63-3029B(3)(a)(ii). In particular, *Idaho Code* § 63-3029I allows a taxpayer to receive an investment tax credit for eligible broadband equipment installed during a calendar year.

Qualified broadband equipment is defined as “those network facilities capable of transmitting signals at a rate of at least 200,000 bits per seconds (bps) to a subscriber and at least 125,000 bps from a subscriber.” *Idaho Code* § 63-329I(3)(b). If a telecommunications carrier is seeking the credit, to qualify, the equipment must also be “necessary to the provision of broadband services and an integral part of a broadband network.” *Idaho Code* § 63-3029I(3)(b)(i). To be eligible for the tax credit, the taxpayer must obtain an order from the Commission confirming that the installed equipment meets the statutory definition of qualified broadband equipment. Procedural Order No. 28784; *Idaho Code* § 63-3029I(4). Once the Commission has determined the installed equipment is eligible for the broadband equipment tax credit, an order along with the original application is forwarded to the Idaho Tax Commission.

Order No. 28784, in Case No. GNR-T-01-10, specified what information applicants must submit to obtain an order that installed equipment is “qualified” broadband equipment. The requirements specified in Order No. 28784 have remained unchanged for twenty years. Commission Staff believes that the requirements, established more than twenty years ago, should be evaluated for their relevancy and necessity today. Staff believes that interested parties will want to intervene or at least comment in the case.

STAFF RECOMMENDATION

Staff recommends that the Commission issue a Notice of Case Initiation and Commission Inquiry and set a 14-day intervention deadline. Once the intervention deadline has passed, Staff recommends that the Commission set a 21-day comment and 7-day reply period.

COMMISSION DECISION

Does the Commission wish to issue a Notice of Case Initiation and Commission Inquiry and set a 14-day intervention deadline and, once the intervention deadline has passed, set a 21-day comment and 7-day reply period?

A handwritten signature in blue ink, appearing to read "Riley Newton", is written over a horizontal line.

Riley Newton
Deputy Attorney General

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